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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/950,013	09/10/2001		Bruce M. Warnes	MP-268B	9221
7:	590 (	06/04/2003			
Mr. Edward J. Timmer				EXAMINER	
Walnut Woods Centre 5955 W. Main Street				MEEKS, TIMOT	HY HOWARD
Kalamazoo, Ml	1 49009			ART UNIT	PAPER NUMBER
				1762	7
				DATE MAILED: 06/04/2003	1

Please find below and/or attached an Office communication concerning this application or proceeding.

			#				
	Application No. Applicant(s)		T				
	09/950,013	WARNES ET AL.					
Office Action Summary	Examiner	Art Unit					
	Timothy H. Meeks	1762					
The MAILING DATE of this communication app Period for Reply	pears on the cover s	heet with the correspondence add	dress				
A SHORTENED STATUTORY PERIOD FOR REPL' THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a repl If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute  - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).  Status	36(a). In no event, howevery within the statutory minimwill apply and will expire SI, cause the application to b	er, may a reply be timely filed  um of thirty (30) days will be considered timely  K (6) MONTHS from the mailing date of this co- ecome ABANDONED (35 U.S.C. § 133).	mmunication.				
1) Responsive to communication(s) filed on	·						
2a) This action is <b>FINAL</b> . 2b) Th	is action is non-fina	al.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims							
4)⊠ Claim(s) 1-33 is/are pending in the application.							
4a) Of the above claim(s) is/are withdra		ion.					
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) 1-33 are subject to restriction and/or	election requireme	nt					
Application Papers	0.00.00., 1.04000						
9)☐ The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) □ acce	pted or b) objected	I to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.							
If approved, corrected drawings are required in reply to this Office action.							
12)☐ The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) ☐ All b) ☐ Some * c) ☐ None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
<ul> <li>3. Copies of the certified copies of the prio application from the International But</li> <li>* See the attached detailed Office action for a list</li> </ul>	reau (PCT Rule 17	.2(a)).	Stage				
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
<ul> <li>a)  The translation of the foreign language pro</li> <li>15)  Acknowledgment is made of a claim for domest</li> </ul>							
Attachment(s)							
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449) Paper No(s) _</li> </ol>	5) 🔲 1	nterview Summary (PTO-413) Paper No( lotice of Informal Patent Application (PTC) lther:					

Application/Control Number: 09/950,013

Art Unit: 1762

## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, drawn to an apparatus, classified in class 118, subclass 715.
- II. Claims 19-33, drawn to a method, classified in class 427, subclass 248.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus could be used for gas phase etching or annealing.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Edward Timmer on 20 May 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

Page 3 Application/Control Number: 09/950,013 Art Unit: 1762 currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy H. Meeks whose telephone number is (703) 308-3816. The examiner can normally be reached on Mon., Tues., Thurs.(6-6:30), Fri.(6:30-10:30). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) \$308-0661. Timothy H. Meeks Primary Examiner Art Unit 1762 res June 3, 2003